

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER 00-0159  
FINANCIAL INSTITUTIONS TAX  
For Tax Periods: 1993 Through 1996**

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**Issue**

**Financial Institutions Tax-** Unitary Filing

**Authority:** IC 6-5.5-5-1, IC 6-5.5-2-1, IC 6-5.5-1-18, IC 6-8.1-5-1 (b).

The taxpayer protests the exclusion of certain affiliates from the unitary group.

**Statement of Facts**

The taxpayer is a bank holding company based in the state of New York. Several of its subsidiaries conduct the business of a financial institution in Indiana. The Indiana Department of Revenue, hereinafter referred to as the "department," audited the taxpayer for the tax years 1993-1996. Prior to the audit, the taxpayer's subsidiaries filed returns as separate entities. The department calculated the taxpayer's financial institutions tax liability on a unitary basis. The taxpayer protested this assessment contending that additional affiliates should be included in the unitary group. A hearing was held to determine which affiliates should be included in the unitary group.

**Financial Institutions Tax-**Unitary Filing

**Discussion**

IC 6-5.5-2-1 imposes a franchise tax on the income of financial institutions. The department determined the taxpayer's financial institutions tax liability on a unitary basis following the provisions of IC 6-5.5-5-1 as follows:

. . . a unitary group consisting of at least two (2) taxpayers shall file a combined return covering the operations of the unitary business and including all of the members of the unitary business.

A unitary group is defined at IC 6-5.5-1-18 as follows:

. . . unitary business means business activities or operations that are of mutual benefit, dependent upon, or contributory to one another, individually or as a group, in transacting the business of a financial institution. . . Unity is presumed whenever there is unity of ownership, operation, and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction among entities. . .

The department included the members of the taxpayer's federal consolidated filing group and its direct and indirectly owned subsidiaries in the unitary group upon which tax was assessed. The taxpayer contends that the unitary group should also have included the additional members historically filing on a combined basis in the states of California and Illinois. The issue to be determined is which business activities and operations should be considered members of the taxpayer's unitary group.

All tax assessments are presumed to be accurate and the taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). The taxpayer failed to provide any documentary evidence in either its original letter of protest or after the hearing that the department's determination of the entities to be included in the unitary group was incorrect. Therefore, the taxpayer did not sustain its burden of proof that the department did not include the proper business activities and operations in the taxpayer's unitary group.

### **Finding**

The taxpayer's protest is denied.

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